

REMARKS

In accordance with the foregoing, the specification and claims 1-7 have been amended. Claims 8-12 have been added. No new matter has been added. Claims 1-12 are pending and under consideration.

CHANGES TO THE DRAWINGS:

The drawings have been reviewed in response to this Office Action. In response to the objections under 37 CFR 1.83(b) to FIG. 1, the corrections included in the substitute specification filed herewith render the objections moot. As suggested in the Office Action, a color version of FIG. 4 (former FIG. 5) and the required Petition under 37 CFR 1.84(A)(2) is filed herewith. Applicant respectfully requests approval of the drawings.

CHANGES TO THE SPECIFICATION:

The specification has been reviewed as suggested in the Office Action. Accordingly, a substitute specification is being filed herewith. A marked-up copy of the original specification accompanies the substitute specification. Changes have been made to the specification only to place it in a preferred and better U.S. form for issuance and to resolve the Examiner's objections raised in the Office Action. No new matter has been added as there is support for the changes in portions of the specification and drawings as originally filed.

DOUBLE PATENTING:

Since U.S. Patent Application No. 10/766,859 that was filed in USPTO the same day as the present application has not yet been issued as a patent, and since the all of the claims of the present application have not yet been indicated as allowable except for the provisional rejection, it is believed that any submission of a Terminal Disclaimer or arguments as to the non-obvious nature of the claims would be premature. MPEP 804(I)(B). As such, it is respectfully requested that the Applicant be allowed to address any obviousness-type double patenting issues remaining once the rejection of the claims under 35 U.S.C. §103 is resolved or on allowance of U.S. Patent Application No. 10/766,859.

CLAIM OBJECTIONS AND REJECTIONS UNDER 35 U.S.C. §112

Claims 1-7 have been amended to overcome the rejections. In light of the amendments of the claims, Applicant respectfully requests withdrawal of the rejections under 35 U.S.C. §112.

CLAIM REJECTIONS UNDER 35 U.S.C. §103

In the outstanding Office Action, Claims 1, 6, and 7 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,369,830 B1 to Brunner et al. (hereinafter Brunner).

Brunner discloses a method of rendering overlapping layers in a computer display, such as a windowing system, that employs front-to-back assembly of the displayed image, the method processing also special effects such as semi-transparency, shadows, and irregular shapes.

The currently amended Claim 1 is directed to a data display device comprising an appearance property obtaining unit, a weighting unit and a display control unit. The appearance property obtaining unit obtains “an appearance property of each of a plurality of object sets that are represented in a same data representation type on a screen, each of the object sets being data objects indicating a type of data, [and] the appearance property indicating a fill area, the number of colors, or the number of data objects.” The weighting unit “applies a weighted value to each object set based on the appearance property.” The display control unit “changes an appearance of at least one of the object sets so that the at least one of the object sets is displayed in a distinct appearance based on the weighted value.”

In light of the amendments to Claim 1, Brunner does not teach or suggest at least the weighting unit that “applies a weighted value to each object set based on the appearance property.” Accordingly, Applicant respectfully requests reconsideration of the rejection based on Brunner.¹

Amended Claims 6 and 7 specify that “the appearance property [indicates] a fill area, the number of colors, or the number of data objects.” This recitation related to the appearance property is not taught or suggested by Brunner. Therefore, amended Claims 6 and 7 patentably define over the cited prior art.

Claims 2-4 were rejected under 35 U.S.C. §103(a) as being unpatentable over Brunner in view of U.S. Published Patent Application 2005/0052462 A1 to Sakomoto et al. (hereinafter Sakomoto). Applicant strongly objects to this rejection because, it is unclear what elements of Claims 2-4 are allegedly disclosed by Sakomoto, and the Office Action also does not provide the motivation to combine Brunner and Sakomoto.²

¹ See MPEP 2131: “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference,” (Citations omitted) (emphasis added). See also MPEP 2143.03: “All words in a claim must be considered in judging the patentability of that claim against the prior art.”

² See MPEP 2143.01 stating “[o]bviousness can only be established by combining or modifying the teaching of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found

Claims 3 and 5 were rejected under 35 U.S.C. §103(a) as being unpatentable over Brunner in view of U.S. Patent 6,658,375 B1 of McQuarrie et al. (hereinafter McQuarrie). It is unclear from the Office Action what elements of Claims 3 and 5 are allegedly disclosed by McQuarrie, and the Office Action does not provide the motivation to combine Brunner and McQuarrie to make obvious the claimed invention.³ The position that Brunner's teachings can be modified to arrive at the claimed device is insufficient to establish a *prima facie* case of obviousness.⁴ In other words, the Office Action attempts to bring in the isolated teaching of McQuarrie into Brunner by picking and choosing features from different references without regard to the teachings of the references as a whole.⁵

NEW CLAIM 12:

New claim 12 is directed to a data display device that has "a weighting unit that applies a weighted value to each of a plurality of object sets that are represented in a same data representation type on a screen, based on an initial appearance property, at least one of the object sets having a distinct final appearance depending on the weighted value." As argued above, the weighing unit is a feature that is not taught or suggested by the prior art. Therefore, new claim 12 is patentable.

either in the references themselves or in the knowledge generally available to one of ordinary skill in the art," (citations omitted). See also MPEP 2144.08 III stating that "[e]xplicit findings on motivation or suggestion to select the claimed invention should also be articulated in order to support a 35 U.S.C. 103 ground of rejection. . . . Conclusory statements of similarity or motivation, without any articulated rational or evidentiary support, do not constitute sufficient factual findings."

³ See MPEP 2143.01 stating "[o]bviousness can only be established by combining or modifying the teaching of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art," (citations omitted). See also MPEP 2144.08 III stating that "[e]xplicit findings on motivation or suggestion to select the claimed invention should also be articulated in order to support a 35 U.S.C. 103 ground of rejection. . . . Conclusory statements of similarity or motivation, without any articulated rational or evidentiary support, do not constitute sufficient factual findings."

⁴ See MPEP 2143.01 stating that the "fact that references can be combined or modified is not sufficient to establish *prima facie* obviousness"; see also same section stating "[a]lthough a prior art device 'may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so,'" (citation omitted).

⁵ See *In re Ehrreich* 590 F2d 902, 200 USPQ 504 (CCPA, 1979) (stating that patentability must be addressed "in terms of what would have been obvious to one of ordinary skill in the art at the time the invention was made in view of the sum of all the relevant teachings in the art, not in view of first one and then another of the isolated teachings in the art," and that one "must consider the entirety of the disclosure made by the references, and avoid combining them indiscriminately.")

CONCLUSION:

In view of the amendments to the claims and the clarifications brought by the substitute specification filed herewith, Applicant respectfully requests a favorable reconsideration of this application.

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

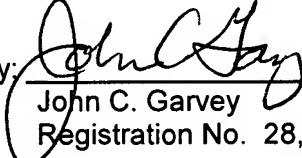
Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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AMENDMENTS TO THE DRAWINGS:

In the Office Action Pages 2 and 3, the Examiner objected to the drawings. In order to overcome these objections, replacement figures are submitted herewith. Original FIG. 2 has been removed and FIGS. 3-7 have been renumbered as FIGS. 2-6, respectively. FIGS. 1-6 have been updated to replace the original sheets including FIGS. 1-7 and to use language corresponding to the language used in the substitute specification filed herewith. Color FIG. 4 corresponding to original FIG. 5 is filed with a petition under 37 CFR 1.84(A)(2). Approval of these changes to the Drawings is respectfully requested.

For convenience of the Examiner, annotated sheets (7 sheets) showing the changes made to FIGS. 1-7 in red ink are also attached herein.

Attachment: Replacement Sheets, Marked-up copies of the original figures.